

IN THE HIGH COURT OF JUDICATURE AT PATNA
Cr.Misc. No.11189 of 2007
MANESH MAHTO @ MANESHI MAHTO
Versus
STATE OF BIHAR & ANR

3. 4.9.2008. Heard the learned counsel for the petitioner as also the learned counsel for O.P. No.2 and Sri Jharkhandi Upadhyay, the learned A.P.P. for the State.

The grievance of the petitioner is against the order dated 3.2.2007 passed by the learned Presiding Judge, Fast Track Court No.IV, Samastipur, in Sessions Trial No.603 of 2006 arising out of Rosera P.S. Case No.52 of 2005, whereby he has rejected the petitioner's prayer for his discharge made under the provisions of Section 227 Cr.P.C.

It is apparent from the fardbeyan of the informant as also the materials on record that prime suspicion of the alleged murder of Dayanand Mahto is against the petitioner and the learned Presiding Judge while rejecting the prayer made for his discharge has stated that there were sufficient materials in the case diary to frame charge against the petitioner.

It is by now well settled in view of the decisions of the Apex Court in the cases of State of Bihar Versus Ramesh Singh (AIR 1977 SC 2018) and Superintendent and Remembrancer of Legal Affairs Versus Anil Kumar Bhunja (AIR 1980 SC 52) that when there is slightest suspicion against the accused of his having committed the offence charge must be framed since at the stage of Sections 227 and 228 Cr.P.C. the court is not required to weigh evidence as is required

at the end of the trial and come to a conclusion that the accused is guilty of the offence or otherwise . What is required by the court at this stage is to see whether there is sufficient material to proceed against the accused.

The learned Presiding Judge having found such materials has rightly rejected the prayer of the petitioner for his discharge and I find no illegality or irregularity therewith.

Accordingly, there is no merit in this application which is dismissed.

(Abhijit Sinha,J)

P.S.

